

R. J. MILLER  
Route 1, Box 242  
Letohatchee, AL 36047

June 6, 1995

Mr. William F. Caton, Secretary  
FEDERAL COMMUNICATIONS COMMISSION  
1919 M Street, N.W.  
Room 222  
Washington, D.C. 20554

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DOCKET FILE COPY ORIGINAL

RE: Supplement to pending Petition for Rule Making  
MM Docket 93-245  
RM-8316


Dear Mr. Caton:

Enclosed please find a supplement to the above captioned petition for rule making. The supplement is filed with an original and four duplicates. In addition, there is a copy labeled "Receipt Stamped Copy." Please have someone receipt stamp this copy and return it to me for my files.

This supplement is necessary due to recent FAA approvals which change the proposed use of channel 300A at Hayneville. The previous FAA limitations no longer exist.

Thank you for your assistance in getting this supplement filed.

Sincerely,

  
R. J. Miller, Individually  
Petitioner

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**ORIGINAL**

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

In The Matter of )  
 )  
Amendment of Section 73.202(b), ) MM Docket 93-245  
Table of Allotments, )  
FM Broadcast Stations ) RM 8316  
(Hayneville, Alabama) )

To:  
Chief, Allocations Branch  
Policy and Rules Division  
Mass Media Bureau

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**SUPPLEMENT**

In the above captioned Docket, R. J. Miller ("Miller") has petitioned the Commission to allot channel 300A to Hayneville, Alabama, as that community's first local service. The Commission issued a Notice of Proposed Rule Making (DA 93-1071) with the Comment Period ending November 15, 1993. Miller timely filed a Counterproposal.

The Miller Counterproposal was filed due to what appeared to be extreme FAA and EMI problems associated with the allotment of channel 300A at Hayneville. Miller, in a separate document simultaneously filed with the counterproposal, requested that his original petition be dismissed. However, recent decisions by the FAA have made the circumstances surrounding the Miller request for dismissal of the original petition moot.

By this document, Miller request that the Commission not consider his request for dismissal of the original petition (the allocation of Ch 300A to Hayneville) and instead dismiss all of the Miller counterproposal to MM Docket 93-244 except the section declaring his expression of interest in the allocation of a class A channel at Hayneville. Miller, in the counterproposal, propped the channel substitutions at Orrville, and Millbrook, Alabama. This was submitted entirely to create a first local service to Hayneville and Lowdnes County Alabama.

Recently the FAA granted a cellular telephone company permission to construct a structure in excess of 122 meters (400') in an area that can be used for a channel 300A antenna site and provide a 70 dBu service contour to Hayneville. The structure may not be accessible for a channel 300A antenna, however, property in the immediate area is available for additional structures, and the fact that the structure has been approved and constructed verifies that FAA approval can be achieved.

Additionally, the new cellular structure site is removed from the Danelly Field Airport (Montgomery Municipal) enough that it appears there are no EMI problems.

Because of the above circumstances, and because the Commission has not taken action on the pending Miller request, Miller request the following;

- 1). That the Allocations Branch not take action on his request for dismissal of the original petition for the

allotment of Ch 300A at Hayneville, and that if it is allocated he will file an application for construction permit, and if he is the successful applicant he will own and daily operate the station.

2). That the Commission not dismiss his expression of interest in the allocation of a channel at Hayneville, however he request remaining sections of the Counterproposal be dismissed. The counterproposal sought the allotment of channel 246A at Hayneville (including substitutions at Orrville and Millbrook, Alabama).

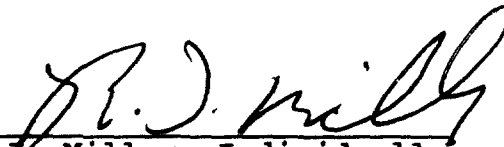
3). That the Commission change the reference coordinates for the allotment of Ch 300A at Hayneville for those in the data base to 32° (Degrees) 15' (Minutes) 09" (Seconds) NL; 86° (Degrees) 29' (Minutes) 20" (Seconds) WL. This is the beginning of an area that allows structure heights sufficient to provide city contour service to Hayneville.

Miller has standing to offer this supplement since the original petition is still pending.

**CERTIFICATION**

I, R. J. Miller, Petitioner for the allocation of a new FM broadcast service at Hayneville, AL do hereby verify that the statements contained in this Amendment (for MM Docket 93-244) are true and correct to the best of my knowledge and belief. I represent that this Amendment is not filed for the purpose of impeding, obstructing, or delaying determination on any other application or petition with which it may be in conflict.

Respectfully Submitted,

  
R.J. Miller, Individually

This 5<sup>th</sup> Day of June, 1995

R. J. Miller, Individually  
Route 1, Box 242  
Letohatchee, AL 36047